



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUL 12 2002

Bill Bradley for President, Inc.
Theodore Wells, as Treasurer
360 Nassau Street
Princeton, NJ 08540

RE: MUR 5279
Bill Bradley for President, Inc.

Dear Mr. Wells:

On June 26, 2002, the Federal Election Commission found that there is reason to believe Bill Bradley for President, Inc. and you, as treasurer violated several provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations. Specifically, the Commission found reason to believe that the Committee and you, as Treasurer, violated 2 U.S.C. § 441(b)(a) and 11 C.F.R. § 114.2(d) by accepting corporate contributions; violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iv) by knowingly accepting contributions made in the name of another; and violated 2 U.S.C. § 434(b)(3)(A) by failing to report all contributor information. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Albert Veldhuyzen or Michelle E. Abellera, the attorneys assigned to this matter, at (202) 694-1650.

Sincerely,



Karl J. Sandstrom
Vice Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Bill Bradley for President, Inc. and
Theodore V. Wells, as Treasurer

MUR: 5279

I. GENERATION OF MATTER

This matter was generated by an audit of Bradley for President, Inc. ("Committee") and Theodore V. Wells, as treasurer, undertaken in accordance with 26 U.S.C. § 9038(a).

II. FACTUAL AND LEGAL ANALYSIS

A. Law

Section 441b(a) of the Federal Election Campaign Act makes it illegal for political committees knowingly to accept or receive contributions from prohibited entities such as corporations. 2 U.S.C. § 441(b)(a). Furthermore, contributions that present genuine questions as to whether they were made by corporations may be, within ten days of the treasurer's receipt, either deposited into a campaign depository under 11 C.F.R. § 103.3(a) or returned to the contributor. If any such contribution is deposited, the treasurer shall make his or her best efforts to determine the legality of the contribution. The treasurer shall make at least one written or oral request for evidence of the legality of the contribution. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. 11 C.F.R. § 103.3(b)(1).

Pursuant to 2 U.S.C. § 434(a)(1), the treasurer of each political committee shall file reports of receipts and disbursements in accordance with certain provisions. Such reports shall include, *inter alia*, the identification of "each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution

1 or contributions have an aggregate amount or value in excess of \$200 within the calendar year
2 . . . together with the date and amount of any such contribution.” 2 U.S.C. § 434(b)(3)(A).

3 Where an individual is concerned, the term “identification” means “the name, the mailing
4 address, and the occupation of such individual, as well as the name of his or her employer.”

5 2 U.S.C. § 431(13)(A). A treasurer must report all contributor information not provided by the
6 contributor, but in the political committee’s possession regarding contributor identifications.

7 11 C.F.R. § 104.7(b)(3).

8 Where a treasurer does not have the requisite information, the reporting requirements will
9 be deemed to have been met when the treasurer shows that “best efforts” have been used to
10 obtain, maintain and submit the required information. 11 C.F.R. § 104.7(a). With regard to
11 information concerning the “identification” of a contributor, a treasurer is required to make at
12 least one effort after the receipt of the contribution to obtain the missing information.

13 11 C.F.R. § 104.7(b)(2). This effort must consist of either a written request sent to the
14 contributor or an oral request to the contributor documented in writing, and must be made no
15 later than 30 days after receipt of the contribution. *Id.*

16 **B. Receipt of Prohibited Contributions and Reporting Violations**

17 The Committee received 40 business checks totaling \$40,000 from Kushner Companies
18 on June 22, 1999. Committee processing codes indicate the Committee was aware the
19 contributions may have been solicited by Mr. Kushner and were related to a single fundraising
20 event. Questions concerning the integrity of the contributions were apparent from the signature
21 on the checks, the corporate name printed on the face of the checks, the reported addresses of the
22 contributors and the method of delivery. Nonetheless, the Committee chose to deposit the checks

1 on June 25, 1999, as permitted under 11 C.F.R. § 103.3(a), but it failed to take appropriate action
2 to verify the legality of the contributions. 11 C.F.R. § 103.3(b)(1).

3 Peter Nichols, the Committee's Assistant Treasurer, told the Audit staff that he had
4 questioned these contributions. Under 11 C.F.R. § 103.3(b), if a questionable contribution was
5 deposited, Mr. Nichols was required to use his best efforts to determine the legality of the
6 contribution, including at least one written or oral request for evidence. Mr. Nichols did not use
7 "best efforts" since he only sent follow-up letters to determine the eligibility of the contributions
8 for matching funds. These verification letters were mailed in February 2000, more than *seven*
9 *months* after the Committee first received the checks.¹ Under Commission regulations, if the
10 contributions could not be determined to be legal, Mr. Nichols and Mr. Theodore Wells, as
11 Treasurer, were required to refund the contributions within *thirty days* of their receipt. 11 C.F.R.
12 § 103.3(b)(1) (emphasis added). In addition to the Committee's failure to follow the thirty-day
13 refund requirement, it also failed to later return the contributions when no further information
14 about the legality of the contributions was provided.

15 In response to its matching fund letters, the Committee received four verification letters.
16 The signed responses provided employer information and personal addresses different from those
17 initially reported by the four contributors. Thus, it appears that the Committee and its treasurer
18 had sufficient information to reasonably conclude that the addresses and employment
19 information originally given for the other 35 contributors were incorrect. Yet, the Committee did

¹ Although a committee treasurer cannot scrutinize every contribution when receiving thousands per day, when a set of contributions is received from a corporation on the same day with the same signature on all identically printed business checks, this should raise some concerns and trigger the verification process of 11 C.F.R. § 103.3(b) on the part of the treasurer. By questioning the contributions, Peter Nichols was apparently aware of the dubious nature of these Kushner contributions but he did not follow the steps outlined in 11 C.F.R. § 103.3(b).

1 nothing to obtain correct contributor information. 2 U.S.C. § 431(13)(A). Mr. Nichols did
2 contact Scott Zecher, Chief Operating Officer of Kushner Companies, but only in response to
3 questions posed by Audit staff. Mr. Zecher merely provided the Committee with a letter, written
4 on Kushner Companies letterhead, explaining why corporate general partners were listed on the
5 face of the contribution checks. Thus, it appears the Committee failed to report the employers
6 and mailing addresses of contributors and failed to employ “best efforts” to verify the
7 contributions. 11 C.F.R. §§ 104.7(a), 104.7(b)(2).

8 The Committee appears to have violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iv)
9 by knowingly accepting a contribution made in the name of another.² Lastly, given the
10 relationship of the contributing partnerships and limited liability companies to Kushner
11 Companies, as well as the role of Mr. Kushner and Kushner Companies in collecting and
12 forwarding the contributions, it appears the Committee may have violated section 441b’s
13 prohibition against accepting “anything of value” from a corporation. *See Federal Election*
14 *Commission v. Friends of Jane Harman*, 59 F.Supp.2d 1046, 1056 (C.D.Cal. 1999) (committee
15 violated section 441b(a) by accepting individual contributions collected by a corporate
16 intermediary).

² In MUR 5033, the Commission voted unanimously to take no action against the Alexander for President Committee for receiving contributions in the name of another through a corporate-reimbursement scheme. The Alexander for President Committee did not have actual knowledge of the illegal nature of the contributions. The Commission held that the facts were insufficient to justify a reason to believe finding against the Alexander for President Committee and noted that, “The fact that an authorized committee receives contributions from individuals employed by the same company, for the same amount, and on the same date, without other factors, is not sufficient to find reason to believe that a violation [by the Committee] has occurred.” MUR 5033, Statement of Reasons, at 2 (June 13, 2001). Unlike in MUR 5033, the Bradley for President treasurer accepted bundled checks transmitted by a corporation that were facially questionable. Nevertheless, the Committee treasurer did not take action as required by 11 C.F.R. § 103.3(b). Therefore, these other factors justify a reason to believe finding that Bradley for President violated 2 U.S.C. § 441f.

1 Accordingly, the Commission found reason to believe that Bill Bradley for President, Inc.
2 and Theodore V. Wells, as Treasurer, violated 2 U.S.C. §§ 441b(a), 441f, 434(b)(3)(A); and
3 11 C.F.R. §§ 114.2(d), and 110.4(b)(1)(iv).

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